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12 **UNITED STATES DISTRICT COURT**  
13 **DISTRICT OF NEVADA**

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ALFONSO JACKSON, ) 3:05-cv-00428-HDM(RAM)  
Plaintiff, )  
vs. ) ORDER ADOPTING MAGISTRATE  
SHERYL FOSTER, *et al.*, ) JUDGE'S REPORT AND  
Defendants. ) RECOMMENDATION  
----- )

The court has considered the Report and Recommendation of the  
United States Magistrate Judge (#185) filed on July 25, 2008, in  
which the Magistrate Judge recommends that this court enter an  
order that Defendant Doakes Motion to Dismiss (#125) be denied as  
moot, that Defendant Doakes and Count I of Plaintiff's Fourth  
Amended Complaint (#124) be dismissed for failure state a claim on  
which relief can be granted under 28 U.S.C. § 1915(e)(2)(B)(ii),  
that Defendants' Motion for Summary Judgment (#140) be granted and

1 that Plaintiff's Cross Motion for Summary Judgment (#148, 150, 151)  
2 be denied.

3 Discovery closed on October 28, 2007. Plaintiff filed an  
4 untimely Motion to Compel Discovery (#178) on May 19, 2008. That  
5 motion is **DENIED**.

6 The court has considered all other pleadings and memoranda of  
7 the parties and other relevant matters of record and has made a  
8 review and determination in accordance with the requirements of 28  
9 U.S.C. § 636 and applicable case law, and good cause appearing, the  
10 court hereby

11 **ADOPTS AND ACCEPTS** the Report and Recommendation of the  
12 United States Magistrate Judge (#185). Accordingly:

13 Defendant Doakes' Motion to Dismiss (#125) the Plaintiff's  
14 Third Amended Complaint is **DENIED** as moot.

15 Count I of Plaintiff's Fourth Amended Complaint (#124) against  
16 Defendant Doakes is **DISMISSED** with prejudice for failure to state a  
17 claim on which relief can be granted pursuant to 28 U.S.C.  
18 § 1915(e) (2) (B) (ii).

19 The Motion for Summary Judgement filed by Defendants Sheryl  
20 Foster, Ben Gutierrez, Bob Hartman, Jim Ferguson, Dr. David Mumford  
21 and Ira Hollingsworth on counts II, III and IV (#140) is **GRANTED**.

22 Plaintiff's Cross Motion for Summary Judgment (#148, 150, 151)  
23 is **DENIED**.

24 **IT IS SO ORDERED.**

25 DATED: This 18th day of September, 2008.

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28 UNITED STATES DISTRICT JUDGE